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SPECIAL COMMITTEE ON THE CHARTER OF
THE UNITED NATIONS AND ON THE
STRENGTHENING OF THE ROLE OF
THE ORGANIZATION
26 January-6 February 1998

Revised proposal presented by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace and security

Because of its far-reaching impact on the life and well-being of peoples, the maintenance of international peace and security is one of the purposes for which the United Nations was established. To that end, the framers of the Organization's Charter established effective collective measures to prevent threats to and violations of international peace and security and to suppress acts of aggression. The Charter of the United Nations assigns to the Security Council principal responsibility for the achievement of this goal.

Since the General Assembly is the organ of the United Nations that embodies the Organization's universal and democratic character, the Charter of the United Nations states that it may consider the general principles of cooperation in the maintenance of international peace and security and may make recommendations in their regard to the Members of the United Nations or to the Security Council or to both.

Developments in the international arena in recent times have provided the United Nations with appropriate opportunities to play the role assigned to it under the Charter. If the United Nations is to be more effective in strengthening the efforts of the international community to promote cooperation in the maintenance of international peace and security, there is a need for a reorganization and reform of the Organization and for the necessary measures to be taken to enhance the role of its major organs on the basis of the principles of justice, democracy and the full sovereign equality of Member States. This process must in the first instance address the improvement of the working methods and mechanisms of the Security Council so that no single State or restricted group of States is given the opportunity to obstruct its actions and resolutions by invoking the rule of the consensus of its permanent members.

It may be said that the changes that have taken place in the international arena in recent times have reduced the use made by certain States permanent members of the Council of that rule. This, however, is an element of limited impact that does not obviate the need for a discussion of the rule with a view to eliminating the fears of many Members concerning the domination that is exercised by a few over the actions of the Security Council and that prompts them to pursue a policy of double standards in order to secure their own political advantage.

The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization can contribute to the efforts being made to reform the Organization so that it can perform the tasks assigned to it effectively and efficiently. In this context, the Special Committee must explore the proposals made to revitalize the General Assembly and to highlight its role as the principal organ mandated to discuss any matters within the scope of the Charter, including the maintenance of international peace and security. The Special Committee should also contribute to the efforts to reform the Security Council, including its composition, and to improve its working methods.

The Libyan Arab Jamahiriya believes that the following ideas and proposals will assist the Special Committee in its endeavour to strengthen the role of the United Nations in the maintenance of international peace and security, bearing in mind that other Member States will have other views and ideas to supplement and develop these proposals:

1. Consideration, pursuant to the provisions of Articles 10, 11 and 14 of the Charter, of ways and means of bolstering the role of the General Assembly in the maintenance of international peace and security as a common responsibility of all Member States of the United Nations;

2. Recommendation of ways to enhance the relationship between the General Assembly and the Security Council on the basis of Articles 15 and 24 of the Charter and within the framework of the endeavour by both organs to strengthen international peace and security;

3. Discussion of the role of the Security Council in the maintenance of international peace and security; consideration of the adverse consequences of invoking the rule of the consensus of the permanent members of the Council; and exploration of ways to limit the use made of the rule, including the identification of issues with respect to which such use may not be made;

4. Identification of the procedural matters to which reference is made in paragraph 2 of Article 27 of the Charter;

5. Elaboration of criteria to ensure that the composition of the Security Council reflects the general membership of the United Nations; equitable geographical distribution in the membership of the Council; and conduct of a periodic review to improve the Council's working methods;

6. Formulation of a precise definition of what constitutes a threat to international peace and security so as to ensure that there is no resort to

action under Chapter VII of the Charter in cases that do not constitute such a threat;

7. Exploration of the effective implementation of Article 31 of the Charter, which ensures the right of any Member of the United Nations to participate, without a vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

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Working paper submitted by the Russian Federation

BASIC CONDITIONS AND CRITERIA FOR THE INTRODUCTION OF SANCTIONS AND OTHER COERCIVE MEASURES AND THEIR IMPLEMENTATION

I

The basic conditions and criteria for the introduction and application of sanctions include the following elements:

1. The application of compulsory sanctions is a radical measure and is permitted only after all other peaceful means of settling the dispute or conflict have been exhausted and only when the Security Council has determined the existence of a threat to peace, a breach of the peace or an act of aggression.

2. The application of sanctions is permissible only in the event of a real, objectively verified and factually established threat to international peace or a breach of the peace, and this refers specifically to international peace, not peace between communities, clans or groups.

3. Sanctions must be introduced in strict conformity with the provisions of the Charter of the United Nations and the rules of international law and justice, pursue clearly defined purposes, have a time-frame, be subject to regular review and provide for clearly stipulated conditions for lifting them, and the lifting of them must not be linked to the situation in neighbouring countries.

4. Before the introduction of sanctions, the country or party which is the object of the sanctions must be given unambiguous notice.

5. The introduction or utilization by individual States of additional sanctions and other coercive measures alongside sanctions introduced by the Security Council is not permissible.

6. Compulsory utilization of means for the peaceful settlement of disputes, including negotiations and provisional measures in accordance with Article 40 of the Charter, up until the time when the need may arise for the introduction of sanctions by the Security Council.

7. The use of sanctions for the purpose of overthrowing or changing the lawful regime or existing political order in the country which is the object of sanctions is not permissible.

8. The creation of a situation in which the consequences of the introduction of sanctions would inflict considerable material and financial harm on third States is not permissible.

9. The imposition on a State which is the object of sanctions of additional conditions for cessation or suspension of sanctions is not permissable except as a result of newly discovered circumstances.

10. Objective assessment of the short-term and long-term socio-economic and humanitarian consequences of sanctions is necessary both at the stage of their preparation and in the course of their implementation.

II

In considering the question of sanctions, special attention should be paid to the "humanitarian limits" of sanctions. Their main components could be the following provisions:

1. When the Security Council considers issues relating to sanctions, account must be taken of humanitarian considerations, which are even more pressing in time of peace than in time of war.

2. Decisions on sanctions must not create situations in which fundamental human rights not subject to suspension even in an emergency situation would be violated, above all the right to life, the right to freedom from hunger, the right to prevent and cure epidemic and other diseases and combat them, and the right to create conditions which would ensure medical services for all and care in the event of illness.

3. The creation of a situation in which sanctions would cause excessive suffering to the civilian population, especially its most vulnerable sectors, is not permissible.

4. Periodic adjustment of sanctions is desirable taking into account the humanitarian situation and depending on the fulfilment by the State which is the object of sanctions of the requirements of the Security Council.

5. The temporary suspension of sanctions is desirable in emergency situations and cases of force majeure in order to prevent a humanitarian disaster.

6. Ensuring unimpeded and non-discriminatory access of the population of countries which are the object of sanctions to humanitarian assistance.

7. Impermissibility of measures likely to cause a serious deterioration in the situation of the civil population and breakdown of the infrastructure of the State which is the object of sanctions.

8. Consideration of the views of international humanitarian organizations of generally recognized authority in drawing up and implementing sanctions regimes.

9. Exclusion of international humanitarian organizations from the effect of sanctions limitations with a view to facilitating their work in countries which are the object of sanctions.

10. Utmost simplification of the regime established for delivery of humanitarian supplies required for the sustenance of the population, and exclusion of medical supplies and staple food items from the scope of the sanctions regime.

11. Strict observance of the principles of impartiality and the impermissibility of any form of discrimination in the provision of humanitarian and medical assistance and other forms of humanitarian support for all sectors and groups of the population.

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DRAFT OF A QUESTIONNAIRE ADDRESSED TO STATES REGARDING THE PROPOSAL TO EXTEND THE JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE IN CONTENTIOUS CASES TO DISPUTES BETWEEN STATES AND INTERGOVERNMENTAL ORGANIZATIONS

Proposal by Guatemala

1. Do you consider that insuperable difficulties of a purely legal nature render the proposal unfeasible or unworkable?

2. If your answer to question 1 is in the affirmative, specify the reasons for this position.

3. If your answer to question 1 is in the negative, do you consider that there are policy reasons for rejecting the proposal?

4. If your answers to questions 1 and 3 are in the negative, do you consider that *locus standi* before the International Court of Justice should be granted to *all* or only to *some* intergovernmental organizations?

5. Having regard to your answer to question 4, do you consider that to effectuate the proposal it is necessary to amend *both* the Statute of the International Court of Justice and the Charter (as distinct from the Statute), *or* that amending the Statute suffices?

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